



Massachusetts Housing Finance Agency  
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August 19, 2022

1025 Mass Ave LLC  
13 Wheeling Avenue  
Woburn, MA 01801  
Attention: Matthew Maggiore

**Re: The Residences at Mill Brook  
Project Eligibility/Site Approval  
MassHousing ID No. 1149**

Dear Mr. Maggiore:

This letter is in response to your application as “Applicant” for a determination of Project Eligibility (“Site Approval”) pursuant to Massachusetts General Laws Chapter 40B (“Chapter 40B”), 760 CMR 56.00 (the “Regulations”) and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development (“DHCD”) (the “Guidelines” and, collectively with Chapter 40B and the Regulations, the “Comprehensive Permit Rules”), under the New England Fund (“NEF”) Program (“the Program”) of the Federal Home Loan Bank of Boston (“FHLBank Boston”).

1025 Mass Ave LLC has submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build fifty (50) homeownership units (the “Project”) on 1.08 acres of land located at 1021 & 1025 Massachusetts Avenue (the “Site”) in Arlington (the “Municipality”).

In accordance with the Comprehensive Permit Rules, this letter is intended to be a written determination of Project Eligibility by MassHousing acting as Subsidizing Agency under the Guidelines, including Part V thereof, “Housing Programs In Which Funding Is Provided By Other Than A State Agency.”

MassHousing has performed an on-site inspection of the Site and has reviewed the pertinent information for the Project submitted by the Applicant, the Municipality and others in accordance with the Comprehensive Permit Rules.

#### **Municipal Comments**

Pursuant to the Regulations, the Municipality was given a thirty (30) day period in which to review the Site Approval application and submit comments to MassHousing. At the request of the Municipality, this time was extended an additional 15 days, for a total of 45 days.

The Select Board submitted a letter expressing that while the plans are preliminary in nature, the Board recognizes many positives of the proposal as presently presented and expects additional details regarding the site, building design, utilities, environmental remediation and impacts, and traffic and public safety will be discussed should this project advance to a comprehensive permit application.

Further, the Select Board stated that although the Project is preliminary in nature, it is consistent with the goals and recommendations of the Arlington Master Plan, Housing Production Plan, Open Space and Recreation Plan, and the Mill Brook Corridor Report.

#### **MassHousing Determination and Recommendation**

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval.<sup>1</sup> As a result of our review, we have made the findings as required pursuant to 760 CMR 56.04(1) and (4). Each such finding, with supporting reasoning, is set forth in further detail on Attachment 1 hereto. It is important to note that Comprehensive Permit Rules limit MassHousing to these specific findings in order to determine Project Eligibility. If, as here, MassHousing issues a determination of Project Eligibility, the Applicant may apply to the Zoning Board of Appeals ("ZBA") for a comprehensive permit. At that time local boards, officials and members of the public are provided the opportunity to further review the Project to ensure compliance with applicable state and local standards and regulations.

Based on MassHousing's site and design review, and considering feedback received from the Municipality, the following issues should be addressed in the application to the ZBA, and the Applicant should be prepared to explore them more fully during the public hearing process:

- Development of this Site will require compliance with all state and federal environmental laws, regulations and standards applicable to existing conditions and to the proposed use related to building construction, stormwater management, wastewater collection and treatment, and hazardous waste safety. The Applicant should expect that the Municipality will require evidence of such compliance prior to the issuance of a building permit for the Project.

MassHousing has also reviewed the application for compliance within the requirements of 760 CMR 56.04(2) relative to Application requirements and has determined that the material provided by the Applicant is sufficient to show compliance.

This Site Approval is expressly limited to the development of no more than fifty (50) homeownership units under the terms of the Program, of which not less than thirteen (13) of such units shall be restricted as affordable for low- or moderate-income persons or families as required under the terms of the Guidelines. It is not a commitment or guarantee of financing and does not constitute a site plan or building design approval. Should you consider, prior to obtaining a comprehensive permit, the use of any other housing subsidy program, the construction of additional units or a reduction in the size of the Site, you may be required to submit a new Site Approval application for review by MassHousing. Should you consider a change in tenure type or a change in building type or height, you may be required to submit a new site approval application for review by MassHousing.

For guidance on the comprehensive permit review process, you are advised to consult the Guidelines. Further, we urge you to review carefully with legal counsel the M.G.L. c.40B Comprehensive Permit Regulations at 760 CMR 56.00.

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<sup>1</sup> MassHousing has relied on the Applicant to provide truthful and complete information with respect to this approval. If at any point prior to the issuance of a comprehensive permit MassHousing determines that the Applicant has failed to disclose any information pertinent to the findings set forth in 760 CMR 56.04 or information requested in the Certification and Acknowledgment of the Application, MassHousing retains the right to rescind this Site Approval letter.


This approval will be effective for a period of two (2) years from the date of this letter. Should the Applicant not apply for a comprehensive permit within this period this letter shall be considered to be expired and no longer in effect unless MassHousing extends the effective period of this letter in writing. In addition, the Applicant is required to notify MassHousing at the following times throughout this two-year period: (1) when the Applicant applies to the local ZBA for a Comprehensive Permit, (2) when the ZBA issues a decision and (3) if applicable, when any appeals are filed.

Should a comprehensive permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the Comprehensive Permit Rules (see especially 760 CMR 56.04(07) and the Guidelines including, without limitation, Part III thereof concerning Affirmative Fair Housing Marketing and Resident Selection). Final Approval will not be issued unless MassHousing is able to make the same findings at the time of issuing Final Approval as required at Site Approval.

**Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the New England Fund Program of the FHLBank Boston, for which MassHousing serves as Subsidizing Agency, as reflected in the applicable regulatory documents. In the interest of providing for an efficient review process and to avoid the potential lapse of certain appeal rights, the Applicant may wish to submit a "final draft" of the Comprehensive Permit to MassHousing for review. Applicants who avail themselves of this opportunity may avoid significant procedural delays that can result from the need to seek modification of the Comprehensive Permit after its initial issuance.**

If you have any questions concerning this letter, please contact Michael Busby at (617) 854-1219.

Sincerely,



Colin M. McNiece  
General Counsel

cc: Jennifer Maddox, Undersecretary, DHCD  
The Honorable Cindy F. Friedman  
The Honorable Sean Garballey  
The Honorable David M. Rogers  
Lenard Diggins, Chair, Select Board  
Christian Klein, Chair, Zoning Board of Appeals



## Attachment 1

760 CMR 56.04 Project Eligibility: Other Responsibilities of Subsidizing Agency  
Section (4) Findings and Determinations

### **The Residences at Mill Brook, Arlington, MA #1149**

MassHousing hereby makes the following findings, based upon its review of the application, and taking into account information received during the site visit and from written comments:

*(a) that the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);*

The Project is eligible under the NEF housing subsidy program and at least 25% of the units will be available to households earning at or below 80% of the Area Median Income, adjusted for household size, as published by the U.S. Department of Housing and Urban Development ("HUD"). The most recent HUD income limits indicate that 80% of the current median income for a four-person household in Arlington is \$111,850.

The Applicant submitted a letter of financial interest from Cambridge Savings Bank, a member bank of the FHLBank Boston under the NEF Program.

*(b) that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the Municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under c.40A, and overlay districts adopted under c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);*

Based on a site inspection by MassHousing staff, internal discussions, and a thorough review of the application, MassHousing finds that the Site is suitable for residential use and development and that such use would be compatible with surrounding uses and would address the local need for housing.

The Town of Arlington does not have a current DHCD-approved Housing Production Plan. According to DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through July 7, 2022, Arlington has 1,301 Subsidized Housing Inventory (SHI) units (6.54% of its housing inventory), which is 687 units short of the statutory minima of 10%.

*(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);*

In summary, based on evaluation of the site plan using the following criteria, MassHousing finds that the proposed conceptual Project design is generally appropriate for the Site. The following plan review findings are made in response to the conceptual plan, submitted to MassHousing:



### **Relationship to Adjacent Building Typology (Including building massing, site arrangement, and architectural details)**

This project consists of four residential floors above a ground level housing lobby, retail, and parking areas. The podium-style residential building is typical in this area in direct response to zoning and building code constraints. The residential floors have a C-shaped layout surrounding an open courtyard at the second level, maximizing daylighting and views for the residential units. Additional shared outdoor spaces are located at the setback areas of the fifth level.

The proposed building is sited on a section of Massachusetts Avenue featuring a mix of commercial and residential buildings from one to four stories in height. This building respects the established building line and enlivens the sidewalk with a modest retail plaza. Siting the building towards the street allows the development of an urban park space at the rear sloping down towards Mill Brook. The fifth floor is held back to reduce the height at the street and create additional outdoor living areas. The elevation designs break down the scale of the building with multi-layered planes and a variety of materials. The front divides into three tower-like forms highlighted with dark brick and punctuated with wood look projecting bays. The building features a dark brick base on all sides, with glass storefronts and garage door at the street. The upper stories are clad with brick, composite siding in a variety of colors and textures, curtainwall glazing, and tall operable windows. By breaking down the building scale with towers, bays, and canopies, and cladding with a combination of different materials, colors and textures, the building design enriches its neighborhood with a fresh modern design.

### **Relationship to adjacent streets/Integration into existing development patterns**

The proposed Residences at Mill Brook will be constructed on a 47,085± square foot parcel of land containing two lots located along the north side of Massachusetts Avenue, between Arlington Heights and the Arlington High School, and directly across from the Massachusetts Avenue intersection with Orchard Place. Commercial and residential development generally surround the property on all sides, with apartment and condominium buildings located east and west of the site along Massachusetts Avenue and Brattle Street.

### **Density**

The Applicant proposes to build fifty (50) homeownership units on approximately 1.08 acres, of which, 0.65 acres are buildable. The resulting density is 76.92 units per buildable acre, which is acceptable given the proposed housing type.

### **Conceptual Site Plan**

The Applicant proposes to construct a 50-unit, 5-story affordable housing condominium building, with ground-level parking and retail space. In an effort to implement erosion controls to protect adjacent properties during construction the Applicant plans to provide stormwater management, provide riverfront restoration and enhancement, construct a newly planted urban park, provide additional riverfront area mitigation on the adjacent property (pending approval from condo association), and install a second level green roof courtyard area as part of the proposed project. The urban park will require removal of all of the invasive plants to enable the developer to provide a robust native plant program inclusive of shrubs, perennials, deciduous trees, evergreen trees, and ferns, as well as a meadow over the roof water infiltration system. The end result will provide a major improvement over the degraded and disjointed riverfront area and will enhance the property and the surrounding properties and provide a serene and natural oasis for the residents of the property to enjoy during their tenure at the property.

### **Environmental Resources**

The site does not contain any area of critical concern or areas of estimated or priority habitat of rare species, wildlife or vernal pools. There is a 0.43-acre area of wetland on the property located in the northeastern most corner of the site. Wetland resources in these areas will be subject to further review by the local Conservation Commission under a Notice of Intent.

### **Topography**

The site's topography is generally level on the developed portion with a significant downward slope to the northeast on the northeast portion. The topographic features of the site have been considered in relationship to the proposed development plans and do not constitute an impediment to development of the Site.

*(d) that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);*

The Project appears financially feasible based on a comparison of sales submitted by the Applicant.

*(e) that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's Guidelines, and the Project appears financially feasible and consistent with the Department's Guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) on the basis of estimated development costs;*

The initial pro forma has been reviewed for the proposed residential use, and the Project appears financially feasible with a projected profit margin of 18.67%. In addition, a third-party appraisal commissioned by MassHousing has determined that the "As Is" land value for the Site of the proposed Project is \$3,200,000.

*(f) that the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and*

MassHousing finds that the Applicant must be organized as a Limited Dividend Organization. MassHousing sees no reason this requirement could not be met given information reviewed to date. The Applicant meets the general eligibility standards of the NEF housing subsidy program and has executed an Acknowledgment of Obligations to restrict their profits in accordance with the applicable limited dividend provisions.

*(g) that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.*

The Applicant controls the Site through a Purchase and Sale Agreement between the seller, 1021 Massachusetts Ave, LLC and the buyer 1025 Mass Ave, LLC dated July 31, 2021, with an expiration date of January 23, 2023.